IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NO. 5:23-CV-443-FL

JOHANNA A. HARRIS,)	
Plaintiff,)	
v.)	ORDER
VARIETY WHOLESALERS,)	
Defendant.)	

This matter is before the court on defendant's motion to dismiss for failure to state a claim (DE 15), and on the court's own initiative to address a threshhold issue regarding insufficiency of service of process by the United States Marshal at the court's prior direction.

Defendant notes in the instant motion that plaintiff "only served . . . [a] portion of the Amended Complaint (Docket No. 7) and no supplemental portions (Docket Nos. 7-1, 7-2, etc.)." (Def's Mem. (DE 16) at 5). Because plaintiff proceeds in forma pauperis, however, service in this case was made by the United States Marshal upon direction of the court. (See December 27, 2023, Order (DE 12)). Where initial service of the entire complaint is important to the court's jurisdiction over defendant, and where the court must direct the United States Marshal properly for such service, the court on its own initiative AMENDS its December 27, 2023, order to now specify more precisely the documents that must be served by the United States Marshal. In particular, the court DIRECTS that service of plaintiff's operative amended complaint (comprising the entirety of DE 7, including DE 7-1, DE 7-2, and DE 7-3), and the issued summons (comprising DE 13), to Variety Wholesalers, be made by a United States marshal or deputy marshal pursuant

to Federal Rule of Civil Procedure 4(c)(3). Defendant's instant motion (DE 15) accordingly is TERMINATED AS MOOT, and the time for defendant to file a responsive pleading or other response to the amended complaint, under Rule 12(a), shall restart upon the instant service now ordered.

SO ORDERED, this the 12th day of April, 2024.

LOUISE W. FLANAGAN United States District Judge